

Royal Botanic Gardens Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the main purposes of the Bill which are to establish the Royal Botanic Gardens Board and defines its functions, to provide for the management of the Royal Botanic Gardens, Melbourne, and the National Herbarium of Victoria and to make consequential amendments to the **Drug, Poisons and Controlled Substances Act 1981**.

Clause 2 provides that the Act comes into operation on a day to be proclaimed.

Clause 3 defines the terms used in the Act.

Clause 4 makes the Act binding on the Crown.

Clause 5 sets out the objectives of the Act.

PART 2—THE ROYAL BOTANIC GARDENS BOARD

Division 1—Establishment and membership

Clause 6 establishes a body corporate to be called the “Royal Botanic Gardens Board”.

Clause 7 states that the Board acts on behalf of the Crown in carrying out its functions and powers.

Clause 8 states that a Board member is not personally liable for anything done or omitted to be done in the exercise of the Board’s functions or powers under this Act.

Clause 9 provides that the Board is subject to the general direction and control of the Minister.

Clause 10 provides for the membership and procedure of the Board, as set out in Schedules 2 and 3.

Division 2—Functions and general powers

Clause 11 sets out the functions of the Board.

Clause 12 gives the Board general powers to do anything necessary or convenient to enable it to carry out these functions.

Clause 13 allows the Board to delegate any of its functions or powers to specified categories of people.

Division 3—Miscellaneous specific powers

Clause 14 sets out the specific powers of the Board.

Clause 15 enables the Board to provide or arrange for the provision of restaurant or refreshment services or services of any other kind at the botanic gardens or on managed land.

Division 4—Powers over land

Clause 16 provides that the Board is responsible for the management of the botanic gardens but does not own them.

Clause 17 enables any Crown land which is not part of the botanic gardens to be placed under the Board's management by an Order in Council on the recommendation of the Minister. Notification of the Order must be published in the Government Gazette.

Clause 18 enables the Board to enter into an agreement with the owner or registered proprietor of any freehold land to place the land under the Board's management.

Clause 19 requires the Board to give notice of land which has become managed land as soon as possible after the land is acquired or the Board enters into a management agreement with the owner or registered proprietor of the land.

Clause 20 provides that if the Board acquires land by gift, it must comply with the terms of the gift.

Clause 21 enables land acquired by the Board which is not suitable for inclusion in the botanic gardens or to become managed land to be maintained by the Board in its existing state or use, and to be managed as the Board thinks fit and the Minister approves.

Clause 22 empowers the Board to surrender land to the Crown and requires the Board to issue a public notice when land owned by the Board ceases to be managed land.

Clause 23 enables the Board to dispose of any interest in land which it owns.

Clause 24 enables the Board to grant a lease, licence or permit in relation to the botanic gardens or managed land.

Division 5—Powers over the State botanical collection

Clause 25 requires the Chief Botanist to determine whether plants and specimens which have been acquired for the State botanical collection should be added to the collection. It also allows the Board to sell plants and specimens which are not part of the State botanical collection.

Clause 26 prohibits the Board from removing any part of the State botanical collection from the National Herbarium, except in carrying out its functions and powers.

Clause 27 sets out the circumstances in which and the procedure which must be followed before the Board can sell, lease or dispose of anything in the State botanical collection.

Division 6—Works

Clause 28 enables the Board to carry out works on the botanic gardens or managed land. The Governor in Council may direct the Board to obtain the approval of the Minister before carrying out specified works or works with a value greater than that specified in the Order.

Division 7—Finance and reporting

Clause 29 requires the Board to keep a fund called the General Fund. The clause gives details of the operation and management of the Fund.

Clause 30 enables the Board to borrow or invest money with the approval of the Treasurer.

Clause 31 empowers the Treasurer to guarantee the repayment of any loan taken out by the Board.

Clause 32 enables the Board and the Director-General to enter into agreements about the provision of services to and for each other, or for the use of each other's staff.

Clause 33 gives the Director-General and persons authorised by the Director-General the right of access at all times to the accounts and financial records of the Board.

Clause 34 requires the Board to keep proper accounts and records and to ensure that all money transactions are properly managed and authorised. It also requires the Board to maintain adequate control over its assets, properly authorize the incurring of liabilities and develop and maintain adequate budgeting, accounting and auditing systems.

Clause 35 requires the Board to prepare a corporate plan which outlines its strategies, priorities and targets for a period of between 3 to 5 years. The plan must be reviewed by 1 September in each year. The Board must also advise the Minister each year of its proposed budget for the financial year, and any departures from that budget.

Clause 36 requires the Board to prepare an annual report each financial year for tabling in Parliament.

Clause 37 requires the financial statements prepared for the annual report to be audited by the Auditor-General.

PART 3—THE DIRECTOR AND STAFF

Division 1—Director

Clause 38 provides for the appointment of a Director, Royal Botanic Gardens.

Clause 39 specifies the terms and conditions of appointment for the Director.

Clause 40 enables the Director to resign from office by letter to the Governor in Council.

Clause 41 enables the Director to be removed from office by the Governor in Council.

Clause 42 enables a Director appointed directly from the public service to be eligible for re-appointment to the public service on termination of his or her term of office. The clause also provides for continuity of superannuation benefits.

Clause 43 describes the role of the Director.

Clause 44 provides that the Director must give to the Director-General any information on the Board's financial operations or financial affairs that the Director-General requires.

Division 2—Chief Botanist and other staff

Clause 45 provides for the Board to appoint a qualified person as chief botanist.

Clause 46 describes the role of the chief botanist.

Clause 47 enables the chief botanist to delegate any of his or her functions or powers to an appropriate person.

Clause 48 enables the Board to employ as many other staff as it considers necessary to assist it in carrying out its functions.

Division 3—General

Clause 49 states that a person employed under this part of the Act is not subject to the **Public Service Act 1974**.

PART 4—ENFORCEMENT AND REGULATIONS

Clause 50 enables legal proceedings under this Act or the regulations to be taken by the Board, the Director or any person authorised by the Board or Director.

Clause 51 enables the Governor in Council to make regulations on a range of matters on the recommendation of the Board.

PART 5—AMENDMENTS AND TRANSITIONAL PROVISIONS

Division 1—Amendment of Act

Clause 52 alters the definition of “botanist” in section 120 (6) of the **Drugs, Poisons and Controlled Substances Act 1981** to mean the chief botanist or delegate under this Act.

Division 2—Transitional Provisions

Clause 53 describes the assets to be vested in the Board. All obligations and liabilities of the Crown or the Director-General in relation to those assets are to be assumed by the Board.

Clause 54 provides that existing reservations and tenures continue to apply in respect of land transferred to the Board or land which becomes managed by the Board.

Clause 55 provides that a gift, disposition, trust or trust fund applying to any property which or the management of which is transferred to the Board takes effect from the commencement of this section in favour of the Board.

Clause 56 provides that any existing regulations applying to the botanic gardens under the **Crown Land (Reserves) Act 1978** continue to apply until 18 months after the date of commencement of this section or until sooner revoked.

Clause 57 provides for existing staff employed at the botanic gardens or the Herbarium to become employees of the Board, with no loss of long service entitlements nor any change in the terms and conditions of their employment which would be disadvantageous to those employees.

Clause 58 enables staff transferred to the Board to continue to be eligible to apply for positions in the public service, and to maintain their superannuation benefits.

Clause 59 states that a reference in any document to the government botanist should be taken to mean chief botanist.

Clause 60 enables part of the Cranbourne Racecourse Reserve shown on the plan in Schedule 4 and other Cranbourne land described in sub-clause (3) to be managed by the Board.

SCHEDULES

Schedule 1 refers to a plan of the Royal Botanic Gardens, Melbourne, and provides a plan of the Cranbourne Gardens. These areas form the botanic gardens as defined in Clause 3 of this Bill.

Schedule 2 sets out the details of the membership of the Royal Botanic Gardens Board.

Schedule 3 sets out the details of the procedure of the Board.

Schedule 4 contains a plan showing the part of the Cranbourne Racecourse Reserve which is to be managed by the Board.

